

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRIAN WATSON, et al.,

Plaintiffs,

-v-

MANHATTAN LUXURY AUTOMOBILES, INC.,

Defendant.

CIVIL ACTION NO.: 20 Civ. 4572 (LGS) (SLC)

ORDER

SARAH L. CAVE, United States Magistrate Judge.

Before the Court is Defendant's request for leave to file a motion to strike the "supplemental and rebuttal" report (the "S&R Report") of Plaintiff's expert, Anya Verkhovskaya (ECF No. 115), and Plaintiff's letter in opposition (ECF No. 121). Having considered the parties' submissions, and having heard the parties' arguments during the telephone conference held today, October 12, 2021, the Court orders as follows:

1. The S&R Report was an improper rebuttal or supplemental report, the remedy for which is to allow Defendant to re-depose Ms. Verkhovskaya for four hours (with questioning limited to the opinions expressed in the S&R Report) and to serve responsive reports from Defendant's two experts, with the reasonable associated costs to be paid by Plaintiffs. See Complaint of Kreta Shipping, S.A., 181 F.R.D. 273, 278 (S.D.N.Y. 1998); Associated Elec. Gas Ins. Servs. v. Babcock & Wilcox Power Generation Grp., Inc., No. 3:11CV715 JCH, 2013 WL 4456640, at *4 (D. Conn. Aug. 16, 2013); Medtronic Vascular, Inc. v. Abbott Cardiovascular Sys., Inc., No. C-06-1066PJH(EMC), 2008 WL 4601038, at *3 (N.D. Cal. Oct. 15, 2008).

2. The parties shall meet and confer and, by **October 18, 2021**, file a joint letter (the “Joint Letter”) with proposals for the following:
 - a. The date of Ms. Verkhovskaya’s continued deposition;
 - b. The date by which Defendant shall serve its responsive report(s); and
 - c. A briefing schedule for Plaintiffs’ anticipated motion for class certification following the completion of this limited continuation of expert discovery.
3. On receipt of the Joint Letter, the Court will quantify the amount of reasonable costs Defendant shall be awarded.

Dated: New York, New York
October 12, 2021

SO ORDERED.



SARAH L. CAVE
United States Magistrate Judge